

Re

A REPLY

— TO THE —

Report of the Commission on Fires

— IN —

PICTOU MINES.

DATED DECEMBER 31st, 1895.

HALIFAX :
NOVA SCOTIA PRINTING COMPANY.
1897.

EMBRACING the opportunity offered by the Honorable
Commissioner of Public Works and Mines, in the
letter from which is taken the extract that heads the
following Reply to the Report of the Commission on Fires
in Pictou Mines, submitted at the close of the last session
of Parliament, but not then considered, further statements
and corrections in relation thereto are now respectfully
submitted to the Committee of the Legislature, at this
the earliest opportunity since the issue of the Report
and the reassembling of Parliament.

STELLARTON, }
January, 1897. }

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"The Hon. Commissioner * * would be pleased * * *
to append to the evidence such corrections, and any further
statements that Mr. Poole would like to make in the matter."

WORKS AND MINES OFFICE, }
August 8th, 1895.

A REPLY

TO THE

Report of the Commission on Fires in Pictou Coal Mines,

DATED DECEMBER 31st, 1895.

Tell me, said a lawyer on reading the Report of the special committee on Fires in Pictou Mines, what is the object of this enquiry? Were not the officials of the Mines Department already conversant with the facts of the case, and were not two of the commission, the inspector and his deputy, in their official capacity, as well able to make the required report as they were in a commission with other two members of no local knowledge or special experience?

Be that as it may this Report, as one of a Government commission, has gone forth wearing a cloak of reliability that only the initiated would question. From the title, and the Department of Mines being its source, the Legislature and the public might fairly assume it relates facts of value in connection with the leases and history of some of the coal mines in the Province, and were it to be filed among the archives and no comment made the future enquirer into such matters might be misled into accepting the data it supplies as reliable. It makes some reflections on the past management of the mines under its consideration, and it makes some palpable mistakes. It has been disseminated broadcast and presented to public libraries, although not yet considered by the Committee on Mines and Minerals.

While it can only be fully followed by one acquainted with mining or by those having large local knowledge as it contains many technicalities and local allusions, the casual reader will quickly form

two impressions; first, that such present conditions of the property involved in the Inquiry as are not satisfactory must be alone due to the Lessor and the management, and secondly that the reclosing of the Foord pit in 1892 is to be attributed to a "lack of co-operation" between the Agent and the special manager for that pit. It will also be concluded that the actions of officials of the Mines Department are without the pale of the Inquiry, and that no duties and no responsibility to the Lessor rested upon them.

That these inferences are not borne out by the facts omitted from the Report, but herewith made evident in the subjoined correspondence it is the object of this Reply to declare.

The report
centres on
the Albion
Mines.

Perhaps it would be well to briefly summarize what this Report is about before proceeding to discuss it in detail. It may be said to centre itself about a mine that, years ago before it was leased to the present holders, had a large trade and drew about it a population that lived on supplying the workpeople. But times changed, grave accidents happened, trade turned to other fields, fires occurred and smouldered on for years in spite of efforts for their extinguishment, and like many things old it had acquired some undesirable yet unremediable conditions. The then lessees transferred their interest to the present holders, who in their turn incurred heavy expenditures in an endeavor to redevelop the property.

The property
changes
hands.

With regard to its history,—mining in the Pietou Coal Field began as far back as 1818, and a strip of the main seam was taken in the best part along the crop as far east and west as the quality of the coal warranted. A subsequent working took another strip further to the deep along the strike of the seam within the limits of saleable coal. Then a pit 900 feet deep took a further lift practically to the same limits. Fires from time to time necessitated flooding the mines with water, and free access throughout the old workings was cut off by falls of roof and crushes. In all the workings the size of the pillars was designed to sustain merely the cover, and a future systematic drawing of pillars was not contemplated (*a*.) This is an important consideration in the light of the Commission's suggestions. The lease originally held by the General Mining Association was in 1873 transferred to the Halifax Company. After the explosion in the Foord pit in 1880, and until the water that flooded the mine was got out and an entry made in 1890, no coal was got from the main seam, but in the meantime two lower seams, the Third and McGregor, were opened and worked.

(a) See Mines Fires Report, pages 4 and 11.

On acquiring the property in 1886, the present lessees set about pumping out the water from the main seam, and as the evidence of the Commission shows, the work of re-opening was put in the hands of Mr. Wills, an English mining engineer, after his opinion as an expert had been obtained in the Spring of 1890.

The work of re-opening met with disappointments heat was early experienced, and later on in 1892 firestink shewed that actual fire had developed within the bounds of the Foord pit workings. Where the old openings were entered they were found so crushed as to be impassable and of such a size, with top and sides so shattered, as to put the building of ranges of stoppings quite out of the question. The heat noted behind certain stoppings in the new work increased; in June a temperature of 96° Fah. was recorded, on Nov. 11th, dry hot ashes came through a crack from the overlying old workings, and on Nov. 1892, no other course was left than to again close the pit on account of the fire and the closing again of this pit renewed the danger of the fire. This ultimately suggested a second inquiry by the Department of Mines.

REPORT OF MR. GILPIN IN 1883 :—Very much the same question was brought in the Legislature in 1883, when it was popularly supposed that the rousing up the fire in the old crop workings meant the destruction of a lot of workable coal. On that occasion Mr. Gilpin, the Inspector, reported as follows :—April 3rd, 1883—" * * * The steps hitherto taken with respect to the fires in the Foord pit and Cage pits have filled the former pit with water, and that portion of the Cage pit which is of value, so that the workable coal in these pits is not at present being injured by fire." And in the Departmental Report for that year he states on page 7 :—" A special report (a) was made to you relative to the cause, extent and effect of the fire, which has existed for over thirteen years in the workings of the abandoned mines (b) at this Colliery. I now give the following memo. on the subject : The Foster pit was sunk in the year 1866 to the main seam, near the face of the western workings of the Dalhousie pits, in the same seam. In May, 1870, a fire, of unknown origin, started in a stopping or wall between the workings of the new pit and of the Dalhousie pit. It being found impossible to put the fire out, the shaft and all openings likely to admit air were carefully closed. Owing to the great extent of coal worked near the crop of the main seam, complete exclusion of air was not attainable.

(a) No reference is made to this Special Report in the Mines Fires Report of 1895.

(b) See M. F. Rep., page 11, and the coal in pillars.

The Acadia Coal Company take the lease in 1886 and try to reopen lost pits.

A candid report in 1883.

Underground fire continuous since 1870.

The fire kept gradually eating its way toward the crop; and in the year 1872 its smoke was found in the workings of the underlying or Deep seam, at a point where the removal of pillars had allowed *the roof to break away up to the overlying seam (c)* and necessitated building off part of the pit. The attempts hitherto made to exclude air from the fire were not allowed to relax, and all subsidences along the outcrops were carefully closed. The workings in the portion of the Dalhousie workings to the westward of the pit and next to the Foster pit, were carried about 35 feet high, the total thickness of the seam, and the pillars left merely large enough to secure the safety of the miners engaged in working. As the pillars and roof became weakened, a considerable district, next to the Foster pit, fell in and was crushed. This crushed district retarded the progress of the fire toward and along the crop of the main seam. About four years ago a portion of the Dalhousie workings, immediately east of this crushed district, fell so as to admit large volumes of air. Before the hole could be closed the presence of fire was discernable close to it. About two years ago a hole still further east also showed signs of heat before it was closed. In January of last year the weakening of the small pillars, already referred to, and of the shaley roof, became so general, that holes fell in at several points still further east. Owing to the difficulty of gathering earth, etc., in the depth of winter, to fill them with, the large volumes of air, unavoidably admitted, caused a rapid extension of the fire until flames issued at several points. After much trouble and expense these openings were finally closed, and at present the fire in these crop-workings is not increasing. As the ground at this part of the outcrop of the main seam is from 75 to 150 feet above the level of the East River, *it will be seen that no successful attempt could be made to flood the coal immediately along the outcrop (d)*. I may add that the coal which has been burning would never have been mined, as it would *not pay under any conditions of trade (e)* to re-enter these old workings with the small pillars and broken roof, as the danger and cost of mining would be very great. The fire under consideration has no connection with any of the numerous fires which have occurred at these mines since the date of their first opening, and which have been referred to in various reports."

In the above extract certain remarks have been put in *italics* to

(c) See M. F. Rep., page 5, anent the walling off at the "Big Brake" in 1872.

(d) See the Commissioner of Mines' speech in the House of Assembly of March 14th, 1888.

(e) See the Commissions' estimate on pages 4 and 11, M. F. Rep.

emphasize them when commenting on certain portions of the present Report on Mines Fires in this reply thereto.

How the Department proposed to deal with the revived complaint is shown in the following correspondence,—at first proposing to proceed under section 21 of the Mines Regulation Chapter, and require the lessees to amend something,—in this case the extinguishment of an underground fire that in the Foord pit did not exist as that pit was then full of water, and of fire that had existed in the old crop workings of the same seam for many years before the Government had leased the property to the present holders. But beyond notifying the lessee of this intention the Department took no decided step in that direction. Eighteen months later a second thought led the officials to prefer asking for an opinion of an experienced mining engineer. But in turn this course was not acted on, and the matter was again postponed for another couple of years, when the Department selected to have an inquiry by a commission of local men.

This Commission met at Stellarton in May, 1895, but without written instructions, and proceeded to take "evidence." Realizing, however, that some show of authority might be advisable they adjourned, and after obtaining instructions, which do not appear published, they in June proceeded with the inquiry.

CORRESPONDENCE THAT LED UP TO THE COMMISSION :—In part the correspondence that had taken place during the years that intervened between the second flooding of the Foord pit and this inquiry was as follows :—

STELLARTON, NOVA SCOTIA, Nov. 26th, 1892.

E. GILPIN, ESQ.,
Inspector of Mines,
Halifax.

Dear Sir,—Mr. Clendenin has sent me on your letter from the Commr. of the 17th inst :—Certainly for my part I am at all times willing to discuss views I may hold on methods of working or rining practices that are left with me for decision. Should you still desire to have the discussion referred to in the letter in question, modified, of course by the present unfortunate condition of the Foord pit, I shall be at any time at your service.

I am, dear Sir,

Yours truly,

HENRY S. POOLE, *Agent.*

WORKS AND MINES,
Nova Scotia, Dec. 22nd, 1892.

Correspondence of the
Mines Office,
1892-1895.

J. W. CLENDENIN, ESQ.,
Acadia Coal Com., Ltd.,
1 Broadway, New York.

Dear Sir,—I am directed to acknowledge receipt of your favor of Dec. 19th. I may say I have suggested to the Hon. Commr. my bringing the question of the fires up under Sec. 21, Mines Reg. Act. I hope

shortly to be advised on this matter by the Hon. Commr. Should he agree, and your company neglect or refuse to remedy the state of affairs complained of, the matter can be submitted to arbitration. I think by this means the subject can be most readily and impartially enquired into. I have intimated to Mr. Poole that I considered this preferable to any indefinite consultation which would possibly not lead to a definite conclusion. I hope in a day or two to be able to advise of the decision of the Hon. Commr.

And remain, yours obediently,

E. GILPIN,
Inspector of Mines.

HALIFAX, Dec. 30th, 1892.

THE ACADIA COAL CO., LTD.,
H. S. POOLE, *Agent*,
Stellarton, N. S.

Acting under provision of Section 21 of the Mines Regulation Act, which authorizes the Inspector to adopt a certain course of action in respect of any matter, thing, or practice, not provided for by the Act, which he finds to be dangerous or defective so as in his opinion to threaten or tend to the bodily injury of any person, or to the waste or misuse of any property of or leased from the Crown, I beg to inform you as follows:—

It has been brought to my notice that in the worked portion of the seam known as the Main Seam in the Albion Mine Area, so called, of your company, at or near Stellarton, in the County of Pictou, held under lease No. 4, G. M. A., from the Crown dated August 24th, 1886, the coal is on fire in one or more places.

The lessee required to put out a fire 22 years old.

This seam has been worked for a number of years, and the workings in said seam from the shaft known as the "Foerd Pit," have recently been suspended on account of the burning of the coal in the older workings. There are in the older workings of the Main Seam large quantities of coal still unworked; and the "Foerd Pit" alluded to can presumably be utilized, if properly protected from the danger of the fire in the old workings for extraction of coal from the solid or yet unworked portion of the seam, as well as from great part of the older workings.

I beg, therefore, under the provision of said Section 21 of the Mines Regulation Act, to notify you as agent of the Acadia Coal Co., Ltd., that the existence of said fire in the Main Seam, and its being allowed to remain unextinguished, is in my opinion a dangerous matter and a defective system of working, tending and threatening to the bodily injury of any person, now or hereafter, employed in the working of said seam, and that such fire threatens and tends to the waste and misuse of the coal seam leased to your company by the crown, and to require that the same be remedied for the better protection of life and for the prevention of waste or misuse of the coal seam so leased to the Acadia Coal Co., Ltd.

I beg to remain yours, obediently,

E. GILPIN,
Inspector of Mines.

January 2nd, 1893.

EDWIN GILPIN, ESQUIRE,
Inspector of Mines,
Halifax.

The Inspector asked to suggest a course of action.

Dear Sir, — I have your favor of the 30th ulto., under Section 21 of the Mines Regulation Chapter, calling attention to fire being allowed to remain unextinguished in old workings of the Main Seam, thereby

threatening bodily injury to workmen and to waste of Crown property. The presence of fire is not denied, but it is one thing to desire to have it put out and another to know how to do it. I am with you in the desire for its extinguishment, but I lack the ability to see a course to pursue that will ensure indubitable success. Will you kindly outline a course that in your opinion would effect the object desired and oblige,

Yours truly,

HENRY S. POOLE, *Agent*.

HALIFAX, N. S., Jan. 5th, 1893.

H. S. POOLE, ESQUIRE,

Care J. W. Clendenin, Esquire,

1 Broadway, N. Y.

Dear Sir.—In pursuance of our conversation *re* "Foord Pit," and the question of the next step to be taken, under Sec. 21 of the Mines Reg. Act (of inspection), I would say that presuming your company is not prepared to remedy forthwith the matter complained of by me, the question arises as to the shape any arbitration should assume. It may not be necessary for any arbitration to go into every detail that may be connected with the notice in question, and matters may be much simplified by adopting the essential for consideration. I would suggest, without any prejudice to the rights of the Department, that the following could be submitted for arbitration:—

1st. The question can the fires in the workings of the Main Seam be extinguished?

2nd. The feasibility of extinguishing part of the fires in the old working, say as far up as the fan shaft.

3rd. The practical feasibility of carrying out any scheme involving an attempt to extinguish all the fires in the old workings. I think this is nearly on the lines suggested. So far as the Department is concerned, the discussion of these questions could be entered on at any time.

Yours truly,

E. GILPIN, JR.

January 18th, 1893.

EDWIN GILPIN, ESQUIRE,

Inspector of Mines,

Halifax.

Dear Sir.—Your favor of the 5th inst. was duly received at New York. In it the remark, "presuming your company is not prepared to remedy forthwith the matter complained of by me," is in advance of our attitude, as we are quite ready to certainly consider, and probably accept, any suggestion that is within the meaning of the Mines Reg. Act, "reasonably practicable." On our part we assume that the Mines Department does not propose to knowingly take an untenable position, and we have yet to learn that you yourself are prepared to submit any plan or method by which you believe a satisfactory answer can be made to the 1st question, which reads, "Can the fires in the Main Seam workings be extinguished?" If you can outline such a plan we shall be pleased to consider its practicability.

The 2nd question requires no discussion, as we are now flooding the workings to the bottom of the "Fan Shaft" referred to.

You speak of arbitration, but we fail to see what there is to submit. Kindly let us know what steps you personally believe to be practicable that we decline to take, and oblige,

Yours truly,

ACADIA COAL CO., LTD.

H. S. POOLE, Agent.

1st August, 1893.

THE ACADIA COAL CO., LTD.,

H. S. POOLE, ESQ., *Genl. Agt.*

Stellarton, N. S.

Proposal to
consult a min-
ing engineer.

Dear Sir,—In the matter of the "Foord Pit" the Hon. Commr is desirous of being more fully informed in all particulars bearing upon the recovery of the coal in the Main Seam. I am directed to write to you and to say that he has in contemplation the advisability of procuring a report on the same from a mining engineer, and in advising you of the purpose he has in view to express his wishes that the step will meet your approval, as the question is one of deep interest to all concerned, and that you will kindly furnish to any agent of the Department such information you and your officials may possess as can assist him in understanding the facts and arriving at any legitimate conclusion.

Believe me, yours very truly,

E. GILPIN,

Dep. Comr.

DR E. GILPIN,

Deputy Commr. of Mines,
Halifax.

August 2nd, 1893.

Dear Sir,—We have your favor of the 1st inst. with reference to the Commr.'s desire to have another opinion on the recovery of coal in the Main Seam in connection with the closing of the "Foord Pit."

An engineer of
repute would
be acceptable.

We shall be pleased to see a mining engineer of repute on the ground, and to give him all the information bearing on the subject that we have.

Yours truly,

ACADIA COAL CO., LTD.,

H. S. POOLE, Agent.

E. GILPIN, ESQ.,

Depty. Commr. of P. Wks. and Mines,
Halifax.

August 10th, 1893.

Dear Sir,—As our President, Mr. Clendenin, is now here, we should be glad to know further of the Commissioner's intentions respecting a report or suggestions of an expert on the Foord Pit and workings in the main seam, and to facilitate whose examination we promised help. We shall be glad to know when he is likely to be here, and hope it will be at a very early day.

Yours truly,

ACADIA COAL CO., LTD.

P.

August 28th, 1893.

HON. CHAS. E. CHURCH,
Commr. P. Works and Mines,
 Halifax.

Dear Sir,—Referring to our conversation on the 25th inst. respecting the condition of the Foord Pit and the desire of the Government to obtain further information upon the subject through an examination by an expert representing your Department I would say that we shall be glad to place all the information and plans we have before said expert.

In view, however, of the complicated questions he will have to consider, permit me to suggest that the Mining Engineer selected, in order that his report may be of value, must be of the first rank and of wide experience. As coal mining in Eastern Canada is confined to Nova Scotia, the selection of a Canadian expert would necessarily be restricted to this Province, but I have no knowledge of any Provincial M. Engineer whose experience would qualify him to deal with the problem of the Foord Pit in a more capable manner than our agent, Mr. Poole.

I would further suggest that the examination be made as soon as practicable, and during the season of moderate weather, as the winter would be an unsuitable time.

Yours respectfully,

(Signed) J. W. CLENDENIN,
President.

May 15th, 1894.

THE HON. C. E. CHURCH,
Commr. of Pub. Works and Mines,
 Halifax.

Sir,—We beg to advise that we have begun preparations to enter the Main Seam by way of the "Foord Fan Pit." As the conditions below are unknown we shall have to be governed in our progress by circumstances as the work advances.

Last year your Department raised the question of working or non-working the seam, but in so general a way that we could not understand what course you were advised could be pursued.

We would now respectfully request that we be promptly informed of the attitude you take, for it manifestly would not be fair to us, assuming on your continued silence and inaction that the matter was dropped, to allow us to make expenditure and then subsequently to revive a contention that has not as yet been definitely placed before us.

We are, Sir,

Your obedient Servant,

ACADIA COAL CO., LTD.,
 HENRY S. POOLE, *Agent.*

May 22nd, 1894.

THE ACADIA COAL CO., LTD.,
 H. S. POOLE, ESQ., *Agent,*
 Stellarton, N. S.

Dear Sir,—I am directed to acknowledge receipt of yours of May 15, in which you state your company has begun preparations for re-opening the "Foord Pit" main seam, and ask the attitude proposed to be adopted by the Government toward the "question of working or non-working this seam." I am directed to say in answer to your enquiry that the Department is pleased to learn that the subject of re-opening the "Main Seam" is receiving attention, and trusts your exertions will be successful, and takes for granted that you can have in view only the same

object that the Department has, the preservation of the coal in the seam referred to, and consequently there can be no desire on its part to interfere with your operations.

It is hardly necessary to add that in saying this, the Department must not be understood to waive any right it may possess for the protection of the public interests.

I remain, yours truly,

E. GILPIN, *Dep. Commr.*

MINES DEPARTMENT,

Halifax, N. S., May 3rd, 1895.

H. S. POOLE, ESQ.,
Acadia Coal Co.,
Stellarton.

An inquiry by a local commission the ultimate selection.
Dear Sir,—The Government have directed me to associate some persons they consider well informed in mining matters with myself, and to make enquiry with a view of learning all that can be got at about the causes, history, and extent of the fires in the Albion seams, and possibly of making any suggestions thereon.

I had proposed commencing this work about the middle of the month, and as access to your plans of the seams would be convenient for me, and doubtless your views would be of interest, I take the liberty of writing you to enquire if the period named would be convenient for you. During your absence Mr. Drysdale spoke to me about the matter, as he was desirous of answering some enquiries of your president.

Believe me, yours, etc.,

(Signed) E. GILPIN, JR.,

Inspector of Mines.

May 4th, 1895.

DR. E. GILPIN, JR.,
Inspector of Mines, Halifax.

Dear Sir,—I have your favor of the 3rd inst., advising me you propose at the direction of the Government making an "enquiry with a view of learning all that can be got at about the causes, history, and extent of the fires in the Albion seams, and possibly of making any suggestions thereon," about the middle of this month.

The plans of the workings are of course at all times open to you, and the period named by you cannot be but convenient to me.

But your references to the wishes of Mr. Clendenin I do not understand; I will, however, enquire of him their relation.*

Yours truly,

H. S. POOLE, *Agent.*

The Commission then proceeded with their inquiry.

AUTHORITY UNDER WHICH THE COMMISSION CLAIMED TO ACT.—It will be noted in correspondence of a later date that this inquiry purported to be conducted under authority of Chapter 120 of the Revised Statutes, which reads as follows: "Of Inquiries Concerning Public Matters."

* Mr. Poole was out of the country during the revival of the agitation in the winter of 1895.

1. Whenever the Governor-in-Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of the Province, or the conduct of any part of the public business thereof, or the administration of justice therein, and such inquiry is not regulated by any special law, the Governor may by commission in the case confer upon the person or persons by whom such inquiry is to be conducted, the power of summoning before him, or them, any party or witness, and of requiring them to give evidence on oath orally, or in writing, etc., etc., etc.

Law authorizing inquiries where no special law exists.

3. The power thus conferred by law, or by the Governor-in-Council, in virtue of either of the preceding sections, shall carry with it the same power to enforce the attendance of such witnesses, and to compel them to give evidence as is vested in any court of law in civil cases, etc., etc., etc.

How THE INQUIRY WAS CONDUCTED.—The notes of evidence taken by the stenographer it is not contended that they were taken verbatim. At times there was a cross-fire of questions referring in some cases to localities indicated only by pointing to the plan of old workings, and there was a technical use of common words which was in some instances confusing. That unintentional errors should thus be recorded is not surprising, especially when the inquiry was conducted by men without legal training and not familiar with the rules of evidence. When some of the resulting errors were noted, and it was assumed the Commission had a desire to be accurate, the letter of August 7th, 1895, was sent to the Commissioner of Mines. The reply of the next day read in connection with that of February 24th, 1896, suggests some startling conclusions.

How the law was carried out.

Inquiry conducted regardless of common practice.

It would seem claimed for Chapter 120 of the R. S., 5th series, the right of such a Commission to put all sorts of questions, relevant or otherwise, to make all sorts of damaging suggestions, and even accusations, and yet that the party so accused had no redress before the Commission so conducted, no right to produce rebuttal testimony, and no right to cross-examine.

It need hardly be said that many solicitors hold an opinion on this construction of the powers conferred by Chapter 120 at variance with that of the learned Commissioner of Public Works and Mines. As to the value of the Report, it will depend on whether it be found fair and just and accurate in detail, or the reverse.

Procedure not indorsed by the legal fraternity.

While the chapter provides: "And such inquiry is not regulated by any special law," still it is used, and although there do happen to

be special laws, chapters 7 and 8, relating to the Leasing and Regulating of Mines.

It will also be noted that while the letter of the Commissioner of Mines of August 8th, 1895, remarks: "The whole matter of the Commission is in the hands of the Executive Council, and he (the Commissioner of Mines) would prefer that you would address yourself to it through the Honorable Provincial Secretary." Yet the Provincial Secretary in reply to the protest of January 22nd, 1896, says the protest "has been referred to the Department of Mines."

N. B.—(At the date of this correspondence the Report had not been issued).

No one allowed
to cross-examine
a witness
before the
Commission.

It will further be noted that while the letter of August 8th claimed the inquiry to be "legal and proper under Chapter 120"—and though that chapter gives the power "vested in any court of law in civil cases"—yet the letter of February the 24th, 1896, from the Department of Mines, states that the Commissioner "is of opinion that in an inquiry of the nature of the Commission *re* Pictou Coal Mine fires there exists in no party, either a witness or an outsider, any right or power to cross-examine any witness that may be summoned by the Commission."

The method of conducting the enquiry not appearing satisfactory, and the evidence as taken by the Commission's reporter being given to the local press and published, before the presentation of the report, the following letters was written:—

THE HON. C. E. CHURCH,

STELLARTON, N. S., July 22nd, 1895.

Commr. of Public Works and Mines, Halifax.

Protest
against publi-
cation of evi-
dence.

Dear Sir,—I regret I have to protest against the publication of references to myself in the Report of the present Commission on cause, history, and effects of the fires in the coal seams of Pictou County for the following reasons:

The evidence taken was not according to the rules of evidence, as inquiries under Chapter 120 required.

My offer to answer questions in writing as allowed by Chapter 120 was not agreed to.

Notes of what was said were incomplete, and although partially corrected, are still unsatisfactory.

References too were made to difference of opinion between myself and Mr. Wills, the manager, respecting the "Foord Pit." Mr Wills is not here to answer for himself, and inferences from imperfect and unexplained references may be misleading.

The Chairman advised me the present enquiry is not held under the Mines and Minerals Act or the Mines Reg. Chap.

I am instructed Chap. 120, as it stands, cannot be construed to include the present enquiry.

I therefore respectfully object to the publication of personal reference, more especially of any of mere hearsay character.

I am, dear Sir,

Your obedient Servant,
HENRY S. POOLE, *Agent*.

STELLARTON, N. S., *August 7th, 1895.*

HON. C. E. CHURCH,

Commr. of Public Works and Mines, Halifax

Sir,—I regret to see you have given to the press the imperfect report of my alleged replies to the Old Pits Commission, although I advised you in mine of July 22nd that it was in parts incorrect. I find:—
Protest against publication of inaccuracies.

I am imputed to have assented to the ridiculous statement that the Foord pit is on fire. Every one knows that the workings of that pit have been under water for two years. What I did assent to was the existence of fire in the *old* pits.

I am made to refer to Mr. Hall. I did not once name him.

I am reported as saying the strata between the 2nd and 3rd seams east are fifty feet thick—I said:—There they were 100 to 108 feet thick.

In my humble opinion the evidence collected should, to be of any value, have the individual endorsement of the witnesses.

I am, Sir,

Your obedient Servant,
HENRY S. POOLE.

HALIFAX, *Aug. 8th, 1895.*

Dear Sir,—I am directed by the Hon. Mr. Church to say in answer to your letters of July 22nd and August 7th: That the whole matter of the Commission is in the hands of the Executive Council, and he would prefer that you would address yourself to it through the Hon. Provincial Secretary. The Commissioner, as a member of the Executive, understands that the Commission was an open one, and that no restrictions could be placed on the publication of such evidence as was presented.

Mr. Church has been informed that no objection was raised as to the manner in which evidence was accepted, and your offer to answer questions in writing was coupled with an intimation that such questions would be answered as were deemed proper by the Acadia Coal Co. Full opportunity was offered for the Acadia Coal Co. to amend or contradict any evidence that appeared to be incomplete or unsatisfactory. As regards any differences of opinion between Mr. Poole and Mr. Wills, the Commissioner has been informed that any full and clear explanation as to any differences of opinion, if tendered by Mr. Poole, would have been satisfactory and accepted without hesitation.

The Hon. Commissioner is advised that the present enquiry is legal and proper under Chapter 120. The Commissioner further states that he has nothing to do with the publication of any evidence tendered before the Commission.* The Commissioner is further advised that the individual endorsement of a witness is not necessary.

The Hon. Commissioner regrets that any misleading or incorrect evidence should appear as having been given by Mr. Poole, and would be pleased if Mr. Poole desires it, to furnish him with a copy of the evidence as taken, and to append to the evidence such corrections and any further statements that Mr. Poole would like to make in the matter.

Yours truly,

E. GILPIN, JR., *Dep. Commr.*

* The only reporter present at the inquiries was the official reporter! who alone could have furnished to the local press their copy.

STELLARTON, N. S., *Jan'y. 22nd, 1896.*
THE HON. W. S. FIELDING, *Prov. Secretary, etc.,*
Halifax, N. S.

Sir,—I am told it is proposed to publish as official all the evidence, etc., collected by the Commission on abandoned pits, including that of Mr. Wills taken in England. Mr. Wills, in his, imputes to the management of these mines base action. His remarks, if made in open court, could have been shewn to be false by cross-examination, had the enquiry been conducted as the Act requires, according to the rules of evidence. This was not done, and no opportunity to cross-examine Mr. Wills was given.

I therefore respectfully request that as this was not done, and Mr. Will's animus is clear, that his imputations should at least be expunged from the official report.

I am, Sir,

Your obedient Servant,

HENRY S. POOLE, *Agent.*

HALIFAX, *24th January, 1896.*
Dear Sir,—I am directed to acknowledge receipt of your letter of 22nd inst., and to inform you that it has been referred to the Department of Mines.

Your obedient Servant,

H. S. POOLE, ESQ.,

H. CROSSKILL, *D. P. Sec'y.*

Agent Acadia Coal Co., Stellarton.

ACADIA COAL CO.,

H. S. POOLE, *Agent, Stellarton, N. S.*

Dear Sir,—I am directed by the Hon. Commr. of Mines to inform you that your letter to the Hon. Provincial Secretary, dated Jan 22nd, 1896, re publication of some evidence taken in connection with the enquiry into the Pictou coal fires has been referred to him.

Rule laid down
overriding
common law
rights to cross-
examine.

I am further directed to say that he is of opinion that in an enquiry of the nature of the Commission re Pictou Coal Mine Fire, there exists in no party, either a witness or an outsider, any right or power to cross-examine any witness that may be summoned by the Commission.

I remain, yours truly,

E. GILPIN, JR., *Dep. Commr.*

THE REPORT CONSIDERED.—In considering this Report it may be regarded from two points of view: First, is it a careful record of facts; and secondly, what is the value of the conclusions and suggestions of the Commission? The latter will, of course, have weight only in proportion to the training and repute of the several members of the Commission,* and the care which the Report itself displays

*Foord Pit Disaster. Inquest Nov. 24th, 1880.

INSPECTOR GILPIN called:—Mr. McColl—Are you a mining engineer?

Witness—I am.

Mr. McColl—Have you a certificate?

Witness—I have not. There are no certificates granted to mining engineers in England.

I may state I have a certificate of membership in the North of England Institute of Engineers.

Mr. McColl—Have you ever stood an examination?

Witness—I have passed an examination on subjects connected with mines in King's College, Windsor, N. S.

See also the Annual Reports of the Department of Mines; and further, a letter signed "Roderick Dhu" in the *Canadian Mining Review*, which by the way Mr. Poole was asked in writing "to take back" although he was not the writer of the letter, nor does he to this day know who was.

was exercised in obtaining, recording, and digesting the "evidence" collected.

It is not proposed here to review seriatim all the statements, comments and conclusions in this Report. It is deemed sufficient to discuss only some of them, and to note that acceptance is not to be implied by absence of comment.

"Every possible effort," says the Report, "was made to secure evidence that all available information about the old workings * * *" Yet no ed. was not secured. reference will be found in the Report to evidence which might have been obtained from Mr. Hudson, general manager, during an important period in the history of the Albion Mines, or of his son, a certificated manager; or of Mr. Rutherford, inspector from 1865 to 1871; or of Mr. Hall, the well-known mining man of Springhill, underground manager at the Albion Mines for many years; or of his successor, Mr. Greener; or of Mr. Gilpin, engaged at the Albion Mines in 1872, when the workings inside the Cage pit Big Brake were walled off (see Reports of the Mines Department for the years 1872 and 1883); or of Mr. Gilpin, inspector in 1880, when the Barrier in the Foord pit was broken through and the explosion in that pit occurred, and who gave in the Report for 1883 a special report on the underground fires in this locality, the subject of the present inquiry; or of his deputy, who visits the working coal pits each month; or of rebuttal evidence that might have been produced had a definite charge been made in the direction of the findings of the Commission.

Neither did the Commission bring to bear by personal examination *knowledge required* of the strata now exposed, the seams of coal now open, or such of the Barriers they refer to as are now to be seen. They made no visits underground. Neither did they study before their witnesses the plan of the Foord pit workings of 1890-92, of great moment in relation to the leakage of air*; and this was the more to be regretted as the inspector and head of the Commission had never visited that pit while open during the three years in question.

Neither is there reference to the "fires"* of which complaint is now made having existed for some 15 years in the Albion area before it was released to the present holders; nor is there reference to the absence in the new lease issued to the present holders, of any stipulation whatever, requiring remedy of the now complained of condition

* It may here be explained that the term "underground fire" is often misunderstood; the popular idea of a fire is a blaze and active combustion of fuel. But mines are spoken of as "on fire" even when the combustion of the coal is very limited, and no indication is to be seen on the surface, when, in short, there is sufficient local heat to cause distillation and limited combustion proportionate to the leakage of air.

of affairs which existed, and were known to exist by the Government at the time when the present lease was issued; no reference is made to the records and the knowledge of the subject acquired by the Mines Office; or to the monthly reports of the deputy:—or that the Department of Mines offered any assistance or advice to the lessees during all these years; or made suggestions on the re-opening of the Foord pit; or made any objection to the manner in which that pit was being re-opened. As a matter of fact the Report for 1891 speaks favorably of the operations.

The Mines Department offered no advice.

The Commission believe that the fire-infected pit may be entered.

THE COMMISSION MAKE A SUGGESTION.—The long paragraph at the foot of page 11 ends with this suggestion: "The Commission believe that in view of the evidence offered this section only of the old workings (in the Deep seam) would warrant an attempt at re-opening at present." Anxious to apply the skill of the Commission, and to be sure what portion of the field might be now worked with their approval, the following correspondence ensued:—

DR. E. GILPIN,

Inspector of Mines, Halifax, N. S.

STELLARTON, N. S., *Sept. 10th, 1896.*

Dear Sir,—In your report as Commissioner to enquire into, etc., the fires in the coal seams in Pictou County, we note near the foot of page 11 you write: "The Commission believe that in view of the evidence offered this section only of the old workings would warrant an attempt at re-opening at present." May we ask you to more fully describe the location of "This section," as in the context the situation is obscurely defined, and we are in doubt as to the section of the old Deep seam workings the suggestion of the Commission applies to, and oblige,

Yours truly,

ACADIA COAL CO., LTD.,

P.

HALIFAX, N. S., *Sept. 18th, 1896.*

MESSRS. ACADIA COAL CO., *Stellarton, N. S.,*

H. S. POOLE, ESQ., *Agent.*

But they won't say where.

Dear Sir,—In reply to yours of Sept. 10th *re* report Commission, I would suggest that the reading of the paragraph on question would be made clearer if the sentence you refer to beginning "The Commission believe," were inserted after the words "main seam" and before the words "the pillars" on the thirteenth line from the bottom of page 11.

I remain, yours truly,

E. GILPIN, JR.,

Inspector Mines.

DR. GILPIN,

Inspector of Mines, Halifax.

STELLARTON, *Sept. 24th, 1896.*

A coloured line suggested.

Dear Sir,—We thank you for yours of the 18th in reply to ours of the 10th inst. But it leaves us still in doubt as to the proper location of

"this section" about which we write, so we enclose an outline plan on a small scale, one of ten chains to an inch, of the workings in the Deep seam, and would ask you to please indicate on it with a coloured line the portion of the workings in question, and return it to us.

Yours truly,
ACADIA COAL CO., LTD.,
H. S. POOLE, *Agent*.

STELLARTON, N. S., Oct. 13th, 1896.

DR. E. GILPIN,
Inspector of Mines.

Dear Sir,—We expect our President here at the end of this week, and we would be glad to have your reply to ours of Sept. 24th to lay before him.

Yours truly,
ACADIA COAL CO., LTD.,
H. S. POOLE, *Agent*.

HALIFAX, N. S., Oct. 14th, 1896.

ACADIA COAL CO.,
H. S. POOLE, ESQ., *Stellarton, N. S.*

Dear Sir,—In reply to yours of Oct. 13th respecting yours of Sept. 24th, I beg to say the information respecting the amount of pillarage in the Deep seam was arrived at by the Commission by superimposing a tracing of the Main seam on a plan of the Deep seam. By a repetition of this process you will see exactly how the matter was regarded by the Commission.

I remain, yours truly,
E. GILPIN, JR.

STELLARTON, N. S., Oct. 19th, 1896.

DR. E. GILPIN,
Inspector of Mines, Halifax.

Dear Sir,—I have yours of the 14th inst in reply to my request of Sept. 24th, that you would please run a line on the small skeleton plan of the Deep seam old workings I then enclosed. Such a line to define the actual location of "this district" in the Deep seam you recommended in your "Mines Fires Report" could at the present time be worked.

In place of returning the plan marked as requested, you suggest a superimposition of the main seam plan on that of the deep seam. This, however, for practical purposes, leaves the location of "this district" as undefined as it is in the Report, and as liable to misinterpretation.

In order that this company may obtain the benefit and carry out to a practical issue the advice you offer, and free from any possible misunderstanding, ^{The request is} standing on my part, I beg to again prefer the request that you return the skeleton plan marked as requested in the letter of Sept. 24th.

I am, dear Sir,
Yours truly,
H. S. POOLE, *Agent*.

To this repeated appeal no response was received, and the assistance naturally to be expected from the Government Inspector and Lessor's agent was not given, and the one presumably practical suggestion has not yet been acted on. If for the sake of trial the

process of the commission, of superimposing a tracing of the Main seam plan over that of the Deep seam is repeated it will be seen that the area of old Deep seam workings left uncovered includes the area robbed previous to 1872 and probably still smouldering. It also includes the area of pillars which Mr. Gilpin in his report for 1883 implies is of no value, and it leaves obscure the course of stoppings assumed necessary for the isolation of "this district" would have to take.

Possibly for these reasons the coloured line was not drawn.

STATEMENTS REQUIRING EXPLANATION.—On page 2 it is stated: "As the fire"—in connection with the severe explosion at the Intercolonial Coal Co.'s colliery at Westville—"was promptly extinguished and work resumed, it was not considered necessary to make any formal enquiry into that explosion." In this paragraph the word "promptly" covers operations extended over three years.* On the other hand reference was made to the Third seam which was entered within one month and was recovered six months after the explosion in 1888.

On page 3 the seams are said to "have been followed to the bottom of the basin and * * their upward rise * * proved." This is only apparently true of *one* seam, and proved but for a half mile only.

On page 4: "The top coal only was worked in these mines" (the Bye pit workings) it is remarked; while it is known some 4 or 5 panels of the Bottom coal were lifted out of East No. 1 pit (see Watson's evidence) and drifts driven to the west (see Watson's and Douglas' evidence). Neither is this working shewn on the plan, nor are drifts that Douglas speaks of as driven in the Big coal to the Dalhousie pit workings.

Errors in the Report.

The "*few yards*" mentioned at the foot of page 4 as the extent of openings east of the Cage pit actually measure some 240 yards or more. So doubtful was their extent that the management thought it advisable in 1888 to put in flank boreholes when sinking the English slope, distant some 1100 feet from the Cage pit.

On page 5 it is stated, and repeated on page 11 of this Report, that "it is believed the explosion of 1888 in the third seam extended the fire in the Cage pit seam to the east of the Big Brake line of stoppings." The fact is well known to be that the fire in question passed east of the line of stoppings some six weeks before the

* See Report of the Department of Mines for the years 1873-76.

explosion referred to, hence this state of affairs was not "owing to the explosion."

The length of the English slope given on the same page should read 2800 feet, and not 1800 feet.

On page 7 it is stated: "The management, not contented with incurring the risk of penetrating the barrier surrounding old workings * * * connected the Deep and Main seams by a stone tunnel." The order of events here related is transposed, the stone drifts were driven in 1877, while the penetrating the barrier occurred after and since Dr. Gilpin became Inspector of Mines.

On page 5 the Report says in speaking of the fire in the Cage pit, 1871-72: "This fire was generally believed to have been caused "by the roof of the Cage pit falling up to the workings in connection with the Forster pit fire. It was stated by the then inspector (Mr. Poole) that by some means unexplained afterdamp suddenly "found its way into the workings of the Cage pit seam. His "opinion now, however, is that the fire in the Cage pit was in no "way connected with the fire in the upper or main seam."

While the extract above is given correctly enough, the accompanying comment conveys a wrong impression. Mr. Poole was not in the Province at the time, and was not appointed inspector until after the stoppings along the Big Brake in the Cage pit had been all built. He did not pretend to express personal belief as above. While the use of the word "now" in the Report gives an impression that he held one view in 1872 and another in 1895.* It was Mr. Gilpin himself who expressed this view in his Report for 1883, and on page 7 wrote: "In 1872 its smoke was found in the workings of the underlying or Deep seam at a point where the removal of pillars had allowed the roof to break away up to the overlying seam." As a matter of fact there were no workings in the upper seam over the site of the fire in the Deep seam, and the credit of the statement that fire came down from the Main seam is not desired by Mr. Poole.

The Report says, page 7: "In the present system of working at the Albion mines there are now four seams connected, viz.: the Third, Cage Pit, Four Feet, and Main Seams." * * * "It may be * * * the limited extent of good coal in the Third seam rendered it necessary to utilize the Third seam workings as a means of access to the other named seams. It must, however, be remembered that

A most misleading statement.

* See his evidence, page 75, of the Fire Report.

an accident to the work in one seam may mean the closing of those in all three." At the time the Report was dated there were no workings in the Main seam, and there are none now in connection with the Third seam. The old connections with the Deep seam are full of water, and so is the abandoned exploring slope that lead out of the Deep seam. On turning to the section of strata given in the Report, page 3, no mention is made of the Four feet seam; and rightly enough, for the fact is, it is a name only for a portion of the Deep seam, separated only from the main part of that seam by a layer 3 to 5½ feet thick of shaley coal. It is misleading to refer to it in any way as a seam that might be worked independently from the main portion of the Deep seam; for in short the so-called "Four feet" and "Deep" seams go to make up but one seam. Instead then of four seams in the present system of working there are but two.

What the object of this criticism was may be surmised when it is remembered that the practice of working two or more seams from one shaft is considered good in many large mining districts, and the Mines Department has not condemned having two seams connected by a drift at Spring Hill. Moreover, it was doubtless known to the Commission that the tender measures but fifty feet thick, or less, in some parts, between the Deep and Third seams, debarred the total isolation of independent workings in these seams, and practically requires them in part of the area to be treated as subject to possible connection.

Faulty mine plans.

The Report notes, on page 6, the "inaccuracies of the mine plans." The plans complained of are inaccurate. They bear this legend: "E. Gilpin, *fecit* 1873."

What's in a name.

On reading the "evidence" published with the Report, the miners of Stellarton, who had personal knowledge of the subject, "thought it strange" that Mr. Poole in answer to the question, "How is the coal in the Foord pit?" should have replied, "I never was down" (1). They well knew to the contrary, and to publish as a reply what was known to be untrue, was to bring him into disrepute with the workmen under him. It happens, fortunately for him, that there is independent evidence of what the question really was, for the local press published the evidence at the time of the enquiry, and gave the question "How is the coal in the *Forster* pit?" and to that his reply as stated is correct.

(1) Page 74 of the Report.
The "Journal News" of Stellarton, and "Enterprise" of New Glasgow Aug. 10th, 1895.

COAL LEFT IN WORKING.—In the third paragraph of that fruitful page 11, we are told "there is" in the bottom coal, and in pillars of the upper part over 10,000,000 tons of coal;* but left, the Commission forgot to state, when the seam was worked by previous lessees.

How this estimate was arrived at would be interesting information, and it would be most valuable to know that this quantity is in the opinion of the Commission workable at the selling prices of to-day, and is of saleable quality.

Such a question is the more pertinent on comparing this conclusion with the remark of Mr. Gilpin in his special Report of April, 1883.

In a matter of the possible extent of a field of coal, the opinion of the Commission would be most suggestive and be invaluable—^{Practice desirable for such an inquiry.} that is, it will be understood—for a prospectus. But in this case it is different. The present matter is one that requires experience as a guide; it is one of practical working involving an expenditure of money with a view to a profitable return, and under these circumstances mere theoretical conclusions are simply valueless. They cannot be for one moment admitted of weight in this enquiry, and it is to be regretted that the opinion of an engineer of repute was not taken instead of this inquiry by Commission, as at one time was proposed by the Department.†

BARRIERS.—The Commission dwell on the numerous connections made between seams and districts of workings in the course of some seventy years' operations, and the cutting through of barriers that had been left from time to time, and then they "record their regret" that such a course of connections should have been so persistently followed. This regret might with equal propriety have extended back to the days when the seams were laid down of variable quality and subsequently disturbed by inconvenient faults.

The second paragraph, page 6, speaks of the importance of "isolation of working," and refers to the piercing of barriers in the Third and McGregor seams as adding to the danger in the event of accident. Of course they are right; the old style of Chinese mining with only half a dozen men to an opening involved no general calamity. They have gone a step further and declared it to be safer not to work the Pictou seams at all, and no one would question their contention; but the matter of area involved in one operation of

* If it be not coal for me,
What care I how much there be?—*Old song.*

† See Letter dated Halifax, 1st Aug., 1893.

more modern method is one that severe competition compels to be of greater extent, and it may surprise the Commission to learn that the area of workings without barriers in the Third and McGregor seams would be regarded in nearly every coal producing country as small. The winnings in both these seams are only three quarters of a mile along the course of the levels, and to cut them in two, with independent plant, would lead to unbearable cost besides being outside the pale of competitive practice. It may be further noted that no Nova Scotia mine of any prominence is of so restricted an area as either of these pits without barriers making two independent workings of each; that the Mining Act does not require the limitation of such workings, and that it is not unusual in other countries to find several seams, six at any rate, in communication with one hoisting pit, with underground roads of twenty miles or more in length.

In comparison with such operations, both the Third seam and McGregor pits are small indeed, and yet the Commission seem to imply it would have been better practice to divide them both in two parts.

"Evidence"
obtained in
England.

MR. WILLS.—In the Report of the Commission answers by Mr. Wills in England to questions sent by the Commission are made to figure prominently. As there was no cross-examination of Mr. Wills a protest was entered by the solicitor of the lessees against his so-called "evidence" being considered. It was nevertheless given, therefore the responsibility for referring to him rests entirely with the Commission. Unfortunately it is now necessary to make further reference to him, and to turn to his correspondence for the readiest proof that the reflections and inferences of the Commission are not borne out by the facts in relation to the lining of the Foord pit shaft and other matters.

It may be noted that much of Mr. Wills' evidence is from memory merely, and unsubstantiated by reference to actual records made at the time, and yet without cross-examination or comparison with rebuttal testimony it seems to have been accepted by the Commission.

In connection with his remark in No. 15, that "no precautions were taken at the outset to check the ingress of air. It poured down the Fan pit * *" he evidently forgot that he found earth and brick and cement packing at the shaft bottom over the mouthing, and a sand stopping off the pumping pit and removed both on his arrival. Also that in the letter to him of August the 5th, 1890, he was

informed the stopping just put in was not quite tight at the Fan pit and therefore that the leakage there of air was in his hands on his arrival in September and could not have been then by him thought to be of the magnitude and importance his evidence in 1895 would make it appear. He also evidently forgot his correspondence of June, July and August, 1890, which clearly shows that the likelihood of spontaneous combustion had already been contemplated, although he implies differently in answers 6, 12 and 31.

Rejoinders to certain answers of Mr. Wills.

And again while the notes and comments submitted by the solicitor of the Lessor in pages 98 and 100 of the Report, erroneously stated on pages 98, 100 and 104 to have been presented by Mr. Poole, showed how faulty was Mr. Wills memory respecting the admission of air into the old workings it is thought well to here also make further comparison of what he actually wrote in 1891 and what he says in 1895 he did in 1891. In answers to questions 31 and 32 he says—"I then, February, 1891, proposed measures, which I considered absolutely necessary for the safety of the colliery, and which, were, of course (in part), to prevent the passage of air from the Foord pit workings into the old workings." Yet so soon after as June 27th, 1891, he suggested the use of the air leakage into the old works for the purpose of working the old 9' 3" pillars. So it would seem that measures that he thought absolutely necessary for the safety of the colliery in February he no longer thought were so in June of the same year. In October, 1895, it would appear, however, he forgot the desire of June and his mind remembered only the necessity of the previous February. Such an illustration is sufficient alone to show how unreliable his memory in 1895 was of events in 1890—1.

Then in answer 16 he speaks of a fresh engagement made in the summer of 1892 with the President who vetoed, so he says, measures which the year before he considered *absolutely necessary* for the safety of the colliery. If he really felt at the time he made his re-engagement as he says he did in his statement made in 1895, it is hard to believe he would have risked a reputation by again taking office.

STATEMENTS WRONGLY HEADED.—On page 98 is given a statement entitled: "Presented by H. S. Poole, already examined as a witness." This statement, together with the comments given on page 100 of the Report, were presented to Dr. Gilpin, not by H. S. Poole, but by the solicitor of the lessees to show why the "evidence" of Mr. Wills should not in justice to the lessees be published. Until subsequent to the presentation Mr. Poole was not aware what

Accuracy of the Commission impuned.

points had been used and what rejected of notes hastily prepared, and what had been added by the solicitor for the above purpose and not for publication. They were far from complete. A fuller refutation of the "evidence" in question could have been produced from documents had it been called for, and copies of some letters and extracts are here added to further show the inadmissibility of much of his evidence.

Solicitor's
opinion.

HALIFAX, October 16th, 1896.

Dear Sir, — As solicitor for the Acadia Coal Company, I waited upon Dr. Gilpin, in the presence of two members (Mr. Madden and Mr. Mitchell) of the Commission, appointed by the Government to investigate matters in reference to the Foord pit at Stellarton, and objected to the statement received from Mr. Wills being considered by them. I pointed out that the Commission was bound only to receive legal evidence, and that legal evidence meant that an opportunity ought to be given to any person interested to cross-examine Mr. Wills. I handed to Dr. Gilpin on a subsequent occasion within two days thereafter, a prepared statement to show the total unreliability of Mr. Wills' evidence on certain material points, and this statement contained documentary evidence in support of the charge I made in reference to the nature of Mr. Wills' evidence.

Dr. Gilpin promised to refer the point that I had raised to the Attorney-General and abide by his decision on the admissibility of the evidence, and that afterwards I would be advised if the Commission wished to hear me further on the objections raised. I received no further intimation from the Commission, nor any request to attend before the Attorney-General, to argue the point as to the admissibility of this evidence.

H. S. POOLE, ESQ.,
Stellarton

Yours truly,

HECTOR MCINNES.

AN INCORRECT DATE ADHERED TO.—In answer to question 18, on page 86 of the Report, Mr. Wills on page 93 replies: "Practically (he took charge of the Foord pit) at the beginning of 1891."

The Commission ignore the correction of an error that is given them.

Although the solicitor's notes, page 102, shew he was back from England and down the Foord pit September 16th, 1890—a statement easily verified by local enquiry, yet the Commission, page 9, take Mr. Wills' purposely deferred date and say: "In January, 1891, Mr. Wills took charge." Some excuse might be made for Mr. Wills writing from memory of three years before, but this excuse can hardly be extended to a Commission that *ignores* the protests* of the party effected by the misrepresentation, and *ignores* the unquestionable evidence to be had from extracts from letters written at the time

But with further regard to such of Mr. Wills' evidence that might have weight if his date and implication were absolutely

* Letter to the Commissioner of Mines,
Statement of the Solicitor, page 102.

correct, the following additional extracts from correspondence with him in June, July, and August, 1890, make it clear that work was proceeding under his direction in the summer of 1890, many months before the beginning of 1891, when he and the Commission say he took charge.

June 28th, 1890.

FIFTH AVENUE HOTEL, New York.

Dear Mr. Poole,—As I believe Mr. Clendenin informed you he has arranged for me to come out and act for two years as assistant manager to yourself, and he asked me to name any points which I thought should be attended to during the next few months at the Foord pit

I think the Fan pit should be geared up as soon as possible, so that roads can be started from that pit * * *

As regards the Foord pit itself, I think the roads should be driven as suggested (see sketch enclosed), and the main level and mine bored set out at an inclination of 1 in 84 and lines put on. I think the temperature should be watched closely there, and if on the east side any inclination to heat is shewn, an inside lining of timber might be put from the arching to the big coal roads and filled in with sand or finely divided soil * *

Yours sincerely,

WALTER R. WILLS.

HENDON, LONDON, N. W.,

July 19th, 1890

Dear Mr. Poole,—I have just received your letter of 3rd, for which I am obliged. I obtained the figures 1 in 84 from the latest and best French work on mining which goes largely into figures. I have looked up the matter again to-day, and find another writer gives 1 in 111 as the gradient of equal resistance. If, therefore, 1 in 100 is taken, I should think it will not be far out. * * *

Yours faithfully,

W. R. WILLS.

Dear Mr. Wills.—

August 5th, 1890.

* * * * We are sinking the Fan pit, and are now down some 20 feet below the old opening which we barred off and stowed with fine soil up to the old barring, but we did not thereby cut off the damp which finds its way up through the broken measures to come out (occasionally) at a point some 80 feet up the shaft. To close effectually would then seem to require a brick lining for some distance up from the bottom. If there be anything I can do in preparation for your arrival it will give me pleasure to endeavor to meet your wishes.

Yours faithfully,

H. S. POOLE.

Compare this advice with Mr. Wills' answers to questions 12 and 15 of the Report and the following instructions received in reply :—

HENDON, LONDON, N. W.,

August 22nd, 1890.

Dear Mr. Poole,—I have received your letter of the 5th, and am much obliged to you. * *

I note your remarks about the Fan pit, if it continues to give off

damp, which I should expect, it will certainly have to be lined in some way, or will foul all the air passing through it. * *

I am very much obliged to you for offering to forward matters for me, but do not know of anything beyond the matters mentioned. * *

Yours faithfully,

WALTER R. WILLS.

A TURN OF IMAGINATION must have led the Commission to say : "The evidence showed a lack of co-operation between Mr. Wills, the manager, and Mr. Poole, the agent of the company. The statements submitted by these gentlemen are of an extremely contradictory nature." The Commission cannot point to a single case of lack of co-operation. A difference of opinion on some points of practice is not necessarily proof of lack of co-operation, and possibly the Commission got confused on this matter. Then they may not have been aware that a difference of opinion is not always an unmixed evil, as in a parliamentary opposition ; or that of a public office, it has been remarked, unanimity is apt to lead to inattention of officials.

"Lack of co-operation" or "difference of opinion" discussed.

Or, perhaps, the Commission have confused Mr. Poole's evidence with the statements and comments used by the solicitor of the lessees given to show that Mr. Wills' "evidence" did not agree with the documents on record in the company's offices. What Mr. Wills thought years after he left the company's employ he had said or ~~done~~ while in it, is no proof of "lack of co-operation" while he was in the employ, especially where in many points he is not sustained by the records, and had at the later date a possible object in blaming somebody else than himself.

A one-sided and partial statement accepted as "evidence."

ON LINING THE FOORD SHAFT.—This matter furnished the Commission with the *pièce de résistance* of their Report, and the partial testimony they acquired concerning it constrained them to conclude that "from * * the evidence * * it appears that the proposal of Mr. Wills to line the shaft with brick was not carried out, nor was any alternative scheme adopted for excluding the air that was passing into the old workings through the timber lining of the shaft."

In this and in paragraphs of similar purport the Commission made several omissions. They forgot to say that while they now conclude "all openings into the old workings * * should have been hermetically closed," no intimation of this opinion on the part of the inspector was given to the manager ~~not~~ by the inspector while the work was progressing ; no visit was paid by him to the pit and no advice tendered ; nor do they show that such a course was

feasible: nor does the attention of the Commission appear to have been drawn to the Inspector's Report for the year 1891, which favorably reviewed the work going on at the Foord pit.

They forgot to mention that close packing had been put in over the stone arches at the bottom of the shaft and behind the barring of the pit before Mr. Wills pulled down the arches and built others.

They forgot that a new lining could not be begun until the arches on which it would have to rest were completed to the pit's eye. That while Mr. Wills' "suggestion" was written in February, a condition suitable was not approached until June, and then, as the solicitor's comments show on page 101 of their Report, Mr. Wills was desirous of using the leakage of air to rob certain pillars, and was no longer keen to cut it off. It was to this pillar robbing and utilization of air leakage, as suggested by Mr. Wills in his letter of June, 1891, that the President's veto, in his letter of Aug. 29th, presently to be referred to, really applied and not as erroneously stated, to the Foord pit lining.

They forgot to learn officially from one of themselves, the Deputy Inspector, that Mr. Poole on one occasion, in presence of the deputy, asked Mr. Wills when he was going to close in the shaft over the arches, and that his reply was vague.

They publish a letter from Mr. Wills of February 20th, 1891, to the president of the company, recommending the lining of the shaft, and they assume it alone is sufficient to establish their conclusion. They do not give the reply, and a further letter from Mr. Wills, so these letters are here appended. These are of value too as showing how much astray Mr. Wills was in his answers to questions 7 and 10, when he says: "It (the lining of the shaft) was not done because the company (through the president) put an absolute veto on it as unnecessary." And in No. 10: "The only objection raised to the lining was that it was totally unnecessary."

The President's letter of February 28th, is what Mr. Wills calls "an absolute veto." It certainly asks that his plans be carefully gone over and considered, which, by the way, he never did. He never submitted any plans. He never again brought up the matter with the president, and when spoken to about it later on made excuses for deferring it, although he said in his first letter of February 20th: "To brick the shaft (for 250 feet) will not entail more than a few day's stoppage." Even the Commission might have seen there was an element of romance in the idea of setting away a brick lining within one of timber in a shaken shaft, building it up 250

feet and replacing buntons and guides for the cages for the whole depth of the shaft, nearly 900 feet, and do all this with "a few day's stoppage."

W. R. WILLS, ESQ.,

28th February, 1891.

Asst. Manager Acadia Coal Co., Ltd., Stellarton.

Letters the re-
port did not
quote.

Dear Sir,—I duly received and have to thank you for the very clear and satisfactory letter of the 20th inst. The Board is exceedingly desirous that the Foord Pit should be placed in complete order and will make the requisite expenditure. At the same time they do not wish any risk of future trouble in the Fan pit, and if you do not feel absolutely sure of the success of your plan, then would prefer to utilize the English slope, although it would entail the maintenance of an isolated plant.

I am writing Mr. Poole to ask you to go over carefully with him the contents of your letter and see if you cannot agree upon the plans for the Foord pit and for the Foord pit lining. Would the change in the cages of the latter be permanent or temporary? Should the lining so reduce the Pits' size as to make it permanent, would this not materially diminish the hoisting capacity?

Yours truly,

(Signed) J. W. CLENDENIN, *Prest.*

Extract from letter of February 27th, 1891, to H. S. Poole,
Agent:—

"Mr. Wills also writes (on the 20th inst.) of the unsatisfactory condition of the Foord pit shaft, and proposes lining it for 250 feet up with 9" brickwork. Please also discuss this point with him; proceed with the work as soon as practicable. The Board is not inclined to spare any proper expenditure for putting this pit in complete order."

STELLARTON, N. S., March 5th, 1891.

ACADIA COAL CO., LTD.,

J. W. CLENDENIN, ESQ., *Prest. Acadia Coal Co.,*

Dear Sir,—I have received your letter of Feb. 28th, for which I am obliged. I note your remarks as to the Fan pit and Foord pit, which question I will discuss fully with Mr. Poole. The lining would necessitate the permanent use of single box (to each deck) cages, but this would not affect the hoisting capacity to any extent, as it would be quite possible to wind from 1,000 to 1,500 tons in ten hours, according to the arrangement made. I have wound from 200 yards with one cage only holding one box (at a similar capacity of ours at the Foord pit), on each of the two decks 630 times in 8 hours—double this for two cages and it gives 1,260 tons in 8 hours.

With suitable arrangements for discharging the cages the winding capacity of a shaft like the Foord pit is immense, and can, I think, be readily arranged to meet all possible requirements.

Yours obediently,

W. R. WILLS, *Asst. Manager.*

To revert once again to the inquiry itself. It is noteworthy that while questions were put in Parliament as to the reasons why certain seams of coal were not now worked, these questions all relate to the

areas held by one lessee, and do not include the idle pits and unworked seams held by other lessees.

Let the questions be made general and apply to all Lessees under Government throughout the Province, and the impossibility of compliance by the Lessees with any Government order for compulsory working will at once be apparent.

For a full understanding of the points raised the Report itself must be consulted with the Questions put before the House in 1895 and the answers that emanated from the Mines Department at that time.

With regard to "pillar" working, and the Commission's views, it has to be remembered no clause in the lease or in the law requires a lessee to work pillars as is done in Pictou and Cape Breton counties, and that probably thousands of acres of pillars remain untouched in Cape Breton without complaint or inquiry. *Antigonish*

CONCLUSION:—From the foregoing quotations, extracts from letters and notes it will be apparent that in matters of fact the Report is not reliable and therefore that the inferences drawn and suggestions made are necessarily in such cases faulty.

A careful reading shows it in other parts to be contradictory and to include irrelevant matter.

The so-called "evidence" is untrustworthy, and was met by no cross examination. Neither was opportunity offered to put in rebuttal testimony on the findings of the commission; nor was the Inspector's personal knowledge of the subject incorporated: It appears that inconsiderate haste was shown in rushing into print the undigested evidence procured under doubtful authority, and distributing the report to the public without the authority of the House of Assembly, to which it is by title ostensibly submitted.

The report further appears to reflect on a Lessee that earnestly endeavored to again bring into use abandoned mines although the head of the Commission offered in his position as Inspector no advice or went near the work while in progress.